

DEPARTMENT OF STATE REVENUE

**LETTER OF FINDINGS NUMBER: 97-0075 CS
CONTROLLED SUBSTANCE EXCISE TAX
FOR TAX PERIOD: March 27, 1995**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Controlled Substance Excise Tax – Imposition

Authority: IC 6-7-3-5; IC 6-7-3-6; IC 6-8.1-5-1

Taxpayer protests the imposition of the controlled substance excise tax.

STATEMENT OF FACTS

Taxpayer was arrested, March 13, 1995, by the Indiana State Police for making multiple deliveries of controlled substances to undercover police agents. The Department assessed the controlled substance excise tax on March 27, 1995. The assessment was based on 37.60 grams of marijuana. Taxpayer protested the assessment. Additional relevant information will be provided below, as necessary.

I. Controlled Substance Excise Tax – Imposition

DISCUSSION

Indiana Code Section 6-7-3-5 states:

The controlled substance excise tax is imposed on controlled substances that are:

- (1) delivered,
- (2) possessed, or
- (3) manufactured;

in Indiana in violation of IC 35-48-4 or 21 U.S.C. 841 through 21 U.S.C. 852.

Pursuant to Indiana Code Section 6-7-3-6:

AThe amount of the controlled substance excise tax is determined by:

- (1) the weight of the controlled substance. . .≡

Taxpayer was arrested and the controlled substance excise tax was assessed based on 37.60 grams of marijuana.

Pursuant to IC 6-8.1-5-1(b), “The notice of proposed assessment is prima facie evidence that the department’s claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made.”

Taxpayer protested the assessment but failed to present evidence that the assessment was invalid. As such, the taxpayer failed to meet his burden.

FINDING

Taxpayer’s protest is denied.